

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: NAVIDEA BIOPHARMACEUTICALS  
LITIGATION

Case No.: 1:19-cv-01578-VEC

ECF Case

**[PROPOSED] ORDER**

WHEREAS, the Court ordered Plaintiff/Counterclaim Defendant Navidea Biopharmaceuticals, Inc. (“Navidea”), to advance certain legal fees and expenses to Defendant/Counterclaim Plaintiff/Third Party Plaintiff Dr. Michael M. Goldberg (“Dr. Goldberg”) in connection with his defense of Navidea’s claims in this action;

WHEREAS, Dr. Goldberg submitted applications for advancement of previously-incurred fees and expenses to the Court on October 2 and October 7, 2020 (together, the “Application”);

WHEREAS, by order dated October 9, 2020 (the “Order”), Navidea is required to file any objections (the “Objections”) to the Application on or before November 6, 2020 (the “Objection Date”);

WHEREAS, pursuant to the Order, Dr. Goldberg is required to file any response (the “Response”) to any Objections filed by Navidea on or before November 13, 2020;

WHEREAS, Dr. Goldberg submitted requests for advancement of fees and expenses incurred by Dr. Goldberg during September 2020 (the “September Billing”) to Navidea on October 5, 2020 for advancement pursuant to the going-forward advancement protocol adopted by the Court (the “Protocol”);

WHEREAS, Dr. Goldberg will submit requests for advancement of fees and expenses incurred in months subsequent to September 2020 (the “Future Billing”) to Navidea for advancement on or before the fifth day of the following month pursuant to the Protocol;

WHEREAS, certain disputes arose between Navidea and Dr. Goldberg regarding implementation of Protocol;

WHEREAS, the Court provided certain guidance to Dr. Goldberg and Navidea concerning implementation of the Protocol;

IT IS HEREBY ORDERED that:

1. To the extent Navidea determines that it will not contest the billing rates of N. Ari Weisbrot, Esq. and/or Gregory Zimmer, Esq. prior to the Objection Date (any such date the “Notice Date”) Navidea’s counsel will inform Dr. Goldberg and the Court in writing (any such notice, the “Notice”) immediately;

2. If Navidea either provides Notice prior to the Objection date or does not object to the billing rates of Weisbrot or Zimmer in the Objections, then within three (3) business days after the earlier of the Notice Date or the Objection Date, Navidea shall pay to Dr. Goldberg all undisputed amounts with respect to the September Billing and any Future Billing provided prior to that time as provided in the Protocol and escrow any additional amount(s) required by the Protocol; and

3. If Navidea objects to the billing rates of Weisbrot and/or Zimmer in the Objections, the Court shall issue a decision regarding reasonable billing rates for the attorney(s) whose rates have been objected to as soon as practicable, separate and in advance of a ruling on the full Application (the “Billing Rate Order”) and within three (3) business days of the Billing Rate Order

Navidea shall pay to Dr. Goldberg all undisputed amounts as provided in the Protocol and escrow any additional amount(s) required by the Protocol.

SO ORDERED:

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Honorable Debra Freeman, U.S. Magistrate Judge